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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

LOS ANGELES CITY SANITATION
BUREAU, HYPERION WATER
RECLAMATION PLANT

[Facility ID No. 800214]

Respondent.

Case No. 1212-39

FINDINGS AND DECISION

South Coast AQMD Rule 3002(c)(1)

Hearing Dates: March 9 & 24, 2022

Time: 9:00 a.m.

Place: Hearing Board

South Coast Air Quality

Management District

21865 Copley Drive

Diamond Bar, CA 91765

FINDINGS AND DECISION OF THE HEARING BOARD

This Petition for an Order for Abatement (“Petition”) was heard on March 9 and 24, 2022, pursuant to notice in accordance with the provisions of the California Health and Safety Code section 40823 and South Coast AQMD Rule 812. The following members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Mohan Balagopalan, Vice Chair; Micah Ali, Alternate; Allen Bernstein, DPM; and Robert Pearman, Esq. Petitioner, Executive Officer of the

1 South Coast Air Quality Management District (“South Coast AQMD” or “Petitioner”), was
2 represented by Mary Reichert, Senior Deputy District Counsel, and Erika Chavez, Senior Deputy
3 District Counsel. Respondent Los Angeles City Sanitation Bureau (“Respondent” or “LA
4 Sanitation”) was represented by Adena Hopenstand, Deputy City Attorney, City of Los Angeles.
5 The parties have stipulated to issuance of this order. The public was given the opportunity to
6 testify. Evidence was received and the matter was submitted. The Hearing Board finds and
7 decides as follows:

8 The Hearing Board finds that GOOD CAUSE exists to issue the Stipulated Order for
9 Abatement. This finding of good cause is based on the following:

10 1. South Coast AQMD has established a prima facie case that LA Sanitation is
11 violating South Coast AQMD Rule 3002(c)(1). South Coast AQMD’s prima facie case is based on
12 the following allegations and evidence set forth in Paragraphs 2 through 9, below.

13 2. Petitioner is a body corporate and politic established and existing pursuant to Health
14 and Safety Code §40000, et seq. and §40400, et seq., and is the sole and exclusive local agency
15 with the responsibility for comprehensive air pollution control in the South Coast Air Basin.

16 3. Respondent LA Sanitation operates the Hyperion Water Reclamation Plant
17 (“Hyperion”), a facility subject to the jurisdiction of the South Coast AQMD. Hyperion is located
18 in southwest Los Angeles at 12000 Vista Del Mar, Playa Del Rey, CA 90293. Its Facility ID
19 Number is 800214.

20 4. Hyperion is a wastewater treatment facility. As part of its operations, the facility
21 operates a digester flare station consisting of six flares, Nos. 1-6 (“Flare Station”).

22 5. South Coast AQMD has issued Permit to Operate No. R-D39256, A/N 227143 for
23 the Flare Station. Permit Condition No. 15 of that permit requires that the operator determine
24 compliance with the NOx emission rates by conducting a source test at least once every five years.
25 Permit Condition No. 16 of that permit states that the equipment is subject to emission limits for
26 NOx of 0.06 lb/MMBTU, pursuant to BACT, South Coast AQMD Rule 1303(a)(1) (“BACT limit
27 for NOx” or “NOx limits”).

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1 6. South Coast AQMD Rule 3002(c)(1) requires Title V facilities to comply with the
2 conditions of their permits.

3 7. LA Sanitation source tested Flares 1 through 4 during September 20-23, 2021.
4 Flare 6 was source tested on December 28, 2021. South Coast AQMD’s evaluation of the source
5 tests revealed that LA Sanitation did not successfully demonstrate compliance for Flares 3 and 4
6 for the BACT limit for NOx. LA Sanitation did not source test Flare 5 in 2021.

7 8. Based on the foregoing, in its Petition, South Coast AQMD alleges that LA
8 Sanitation is currently in violation of Permit Conditions Nos. 15 and 16 and South Coast AQMD
9 Rule 3002(c)(1) because the source tests conducted in September 2021 did not successfully
10 demonstrate compliance for Flares 3 and 4 for the BACT limit for NOx set forth in Permit to
11 Operate No. R-D39256. The Petition further alleges that Flare 5 was not source tested after 2015
12 to demonstrate compliance with its NOx limits set forth in Permit to Operate No. R-D39256. On
13 October 8, 2021, the South Coast AQMD issued Notice of Violation P63324.

14 9. In February 2022, Respondent engaged vendor John Zink Company, LLC also
15 known as John Zink Hamworthy Combustion, a combustion specialist (“John Zink Company”), to
16 evaluate its Flare Station and provide an assessment in written reports (“John Zink Report”).

17 10. At the March 9, 2022 hearing on the Petition (“March 9 Hearing”), the Hearing
18 Board received and evaluated Petitioner’s Exhibit 1, Proposed Findings and Decision, Petitioner’s
19 Exhibit 2, Revised Proposed Findings and Decision, as well as Respondent’s Exhibits A through F.
20 The Hearing Board also heard public comment and testimony from party witnesses. Sheri
21 Symons, Environmental Engineer with the City of Los Angeles working at Hyperion, testified for
22 Respondent. Michal Haynes (AQ Inspector III for the Toxic Waste Management Unit), Ray
23 Ronquillo (Senior Air Quality Engineer for the Waste Management Permitting Team), and
24 Michael Wickson (Senior Air Quality Engineer in the Source Testing Division), testified for
25 Petitioner. The Hearing Board concluded that it required additional time to evaluate the Revised
26 Proposed Findings and Decision (Petitioner’s Exhibit 2), and continued the hearing on the Petition
27 to March 24, 2022.

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1 11. On February 25, 2022, following its on-site evaluation of Flares 1-5, John Zink
2 Company provided the John Zink Report recommending the cleaning and repair of the burners,
3 mixing plates, and brackets for those flares. Thereafter, John Zink Company also performed its
4 evaluation of Flare 6, and on March 14, 2022, an updated and amended version of the John Zink
5 Report, adding John Zink's assessment of Flare 6 to the existing report ("Updated John Zink
6 Report"), was provided to South Coast AQMD.

7 12. Since the March 9th Hearing, Respondent has completed the cleanings and repairs
8 recommended by the John Zink Report for Flares 1, 2, 3, 4, and 5. Respondent has also completed
9 source tests for Flares 1, 3, 4, 5, and 6 consistent with Conditions 1 and 2 of Petitioner's Exhibit 2.
10 The vendor that tested Flare 3 indicated that, at the time of source testing, its fuel flow was erratic,
11 which potentially affected the test results. Accordingly, Flare 3 will be re-tested to account for this
12 factor on March 24, 2022 or March 25, 2022. Source testing for Flare 2 is also scheduled for
13 March 24, 2022 and/or March 25, 2022.

14 13. Since the March 9th Hearing, Respondent has also provided maintenance records
15 and manuals to South Coast AQMD consistent with Condition 3 of Petitioner's Exhibit 2, and has
16 been submitting weekly reports to South Coast AQMD consistent with Conditions 6 and 7 of that
17 Exhibit.

18 14. Respondent has agreed to stipulate to issuance of this Order for Abatement pursuant
19 to California Health & Safety Code section 42451(b). Respondent states that it can comply with
20 the conditions set forth below. The reporting requirements and time limits set forth in the
21 conditions below have been justified.

CONCLUSIONS

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23 1. The parties have stipulated to issuance of this Order for Abatement pursuant to
24 California Health & Safety Code § 42451(b).

25 2. The issuance of this stipulated Order for Abatement following a fully noticed hearing
26 will not constitute a taking of property without due process of law. If the issuance of this stipulated
27 Order for Abatement results in the closing or elimination of an otherwise lawful business, such
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1 closing would not be without a corresponding benefit in reducing air contaminants.

2 3. This stipulated Order for Abatement is not intended to be, nor does it act as a variance,
3 and Respondent remains subject to all rules and regulations of the District, and with all applicable
4 provisions of California law.

5 **ORDER**

6 THEREFORE, based on the foregoing and good cause appearing, the Hearing Board
7 hereby orders Respondent to immediately cease and desist from violating Rule 3002(c)(1), or in
8 the alternative, comply with the following conditions:

9 1. Prior to April 16, 2022, Respondent shall complete the source test for Flare 2 and the
10 re-test of Flare 3, pursuant to the permit conditions of Permit R-D39256, A/N 227143. Respondent
11 shall request and pay for expedited processing of the source testing results from all source tests
12 performed since March 1, 2022, if available, and shall submit the final test results for each flare's
13 source test as soon as it becomes available, but no later than 30 days after the respective source test's
14 completion to South Coast AQMD by email (attention Michal Haynes, mhaynes@aqmd.gov; Ray
15 Ronquillo, rronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert,
16 mreichert@aqmd.gov). Other than for total hydrocarbon (THC), LA Sanitation shall conduct the
17 source tests in accordance with a previously approved protocol, approved by South Coast AQMD in
18 or about November 2021, including but not limited to the recalibration of the fuel flow meters. For
19 THC testing, Respondent shall proceed pursuant to industry standard and shall utilize South Coast
20 AQMD methods 25.1 and 25.3 for a minimum sample time of 15 minutes simultaneously at the inlet
21 and the outlet, respectively. The source test shall also determine the destruction removal efficiency
22 (DRE) of for THC, and the mass and concentration (in ppmvd @ 3% O2) emissions for carbon
23 monoxide (CO) and nitrogen oxide (NOx) (and compute the lbs NOx/MMBTU).

24 2. Respondent shall complete the repairs and maintenance recommended by the John
25 Zink Report(s) for Flare 6 by no later than April 16, 2022.

26 3. Respondent shall submit a weekly progress report on the status of all testing, repairs,
27 and maintenance work, to any flare in the Flare Station, to South Coast AQMD by email (attention:
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1 Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo, rroquillo1@aqmd.gov; Erika Chavez,
2 echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov) and to the Hearing Board (attention:
3 Clerk of the Board), every Monday of each week, by 11:59 pm. At a minimum, the report shall
4 provide the status of the procurement and execution of any contract(s), as well as a detailed
5 description of any work completed, challenges encountered, unexpected additional repair work
6 performed, delays in parts/components delivery (if any), and estimated completion of each phase of
7 the work.

8 4. In the event that any flare is found to be non-compliant based on South Coast
9 AQMD's evaluation of the source testing performed since March 1, 2022, Respondent shall:

10 a. Within 30 days of South Coast AQMD's communication that any flare is
11 noncompliant based upon source tests performed since March 1, 2022, contract
12 or subcontract an appropriate vendor, contractor, or consultant to provide a
13 technical evaluation and comprehensive report of the Flare Station
14 ("Comprehensive Evaluation and Report"). The Comprehensive Evaluation and
15 Report shall encompass all Flares Nos. 1-6, and shall include: (a) an assessment
16 of the conditions of the flares and their components as of the date of the
17 evaluation(s); (b) an evaluation of the cleaning and repairs performed on the flares
18 pursuant to the John Zink Reports and whether such cleaning and repairs had any
19 impacts on flare performance; and (c) identification of further recommendations
20 for additional repair, maintenance work, and/or replacement of the flares, if any,
21 as well as estimated timelines for completion thereof. Respondent shall include
22 in its weekly progress report (Condition 3, *infra*) the status of the Comprehensive
23 Evaluation and Report and/or related vendor, contractor, or consultant retention.

24 b. No later than 60 days after South Coast AQMD's communication to Respondent
25 regarding the first non-compliant flare, Respondent shall provide a copy of the
26 Comprehensive Evaluation and Report to South Coast AQMD by email
27 (attention: Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo,
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1 rronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert,
2 mreichert@aqmd.gov).

3 c. No later than 90 days after the completion of the Comprehensive Evaluation and
4 Report, Respondent shall submit a proposed plan implementing the
5 recommendations of the Comprehensive Evaluation and Report
6 (“Implementation Plan”) to South Coast AQMD by email (attention: Michal
7 Haynes, mhaynes@aqmd.gov; Ray Ronquillo, rronquillo1@aqmd.gov; Erika
8 Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov). The
9 Implementation Plan shall include the steps required to bring all of Respondent’s
10 flares into compliance, including but not limited to timelines for submitting
11 applications for all required approvals from the South Coast AQMD and any other
12 regulatory entity, timelines for completing all necessary steps for Respondent to
13 execute contracts and purchase orders to complete the required work, and a
14 manufacturing and installation schedule, as applicable.

15 d. On the same date that the Respondent submits its Implementation Plan to South
16 Coast AQMD, Respondent shall submit the Comprehensive Evaluation and
17 Report, Implementation Plan, and a status report to the Hearing Board (attention:
18 Clerk of the Board).

19 5. Respondent shall take the following actions ahead of the Digester Gas Utilization
20 Project (DGUP) shutdown scheduled for April 16, 2022: (a) investigate the availability of a
21 thermal oxidizer or other appropriate digester gas control system to use in replacement of non-
22 compliant flare(s) and procure if there is availability; and (b) investigate obtaining a various
23 locations permit with expedited processing for a thermal oxidizer or other appropriate digester gas
24 control system. If there is no availability to utilize a thermal oxidizer, or other appropriate digester
25 gas control system in replacement of non-compliant flare(s), Respondent shall prioritize operation
26 of its compliant flares.

27 6. Notwithstanding the deadlines for the deliverables stipulated in Conditions 1, 2, 4
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1 and 5, Respondent shall expedite and pay for expediting costs for the delivery of all goods, supplies,
2 parts, components, technical consultation services and source testing services required for the
3 execution of the requirements in this Order for Abatement.

4 7. Respondent shall pay its annual fees such as annual permit renewal fees, including
5 any late fees, for the facility (ID# 800214), expeditiously, but by no later than April 16, 2022.

6 8. The Hearing Board shall hold a hearing at 9:00 am on **November 3, 2022**, to review
7 the status of this matter and consider a modification and/or extension of this Order.

8 9. The Hearing Board shall retain jurisdiction over this matter until and including
9 **March 24, 2023**, or 30 days after Respondent has achieved final compliance, whichever comes first.
10 Final Compliance is defined as South Coast AQMD's confirmation that Flare Nos. 1-6 are
11 compliant, pursuant to source test results for Flare Nos. 1-6 submitted by LA Sanitation to South
12 Coast AQMD.

13 10. The Hearing Board may modify the Order for Abatement upon making the findings
14 required by Health and Safety Code Section 42451(a) and South Coast AQMD Rule 806(a). Any
15 modification of the Order shall be made only at a public hearing held upon 10 days published notice
16 and appropriate written notice to Respondent.

17 11. Nothing herein shall be deemed or construed to limit the authority of South Coast
18 AQMD to issue Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive
19 relief, or to seek further orders for abatement, or other administrative or legal relief.

20 12. Respondent shall notify the Clerk of the Hearing Board in writing when final
21 compliance is achieved.

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23 FOR THE BOARD: Robert Pearman, Esq.
24 **Robert Pearman, Esq.**

25
26 DATED: March 30, 2022
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PROOF OF SERVICE BY E-MAIL

MINUTE ORDER/FINDINGS AND DECISIONS

Case No. 1212-39

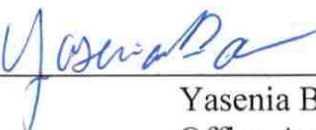
I, the undersigned, declare that I am employed in the **County of Los Angeles, State of California**. I am over the age of eighteen years and am not a party to the within action. My business address is **21865 Copley Drive, Diamond Bar, California 91765**.

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|---|---|
| CALIFORNIA AIR RESOURCES BOARD ATTN: variance@arb.ca.gov | US ENVIRONMENTAL PROTECTION AGENCY REGION IX ATTN: ROSHNI BRAHMBHATT brahmbhatt.Roshni@epa.gov |
| ADENA M. HOPENSTAND DEPUTY CITY ATTORNEY OFFICE OF THE CITY ATTORNEY adena.hopenstand@lacity.org | |

BY E-MAIL - By transmitting a true pdf copy of the **Findings and Decisions and/or Minute Orders** before the **Hearing Board** by e-mail transmission from ybaltierra@aqmd.gov to each of the interested party at the e-mail addresses set forth above. Said transmission(s) were completed on the aforesaid date at the time stated on declarant's email transmission record.

I declare under penalty of perjury under the laws of the **State of California** that the foregoing is true and correct.

Executed on *April 5, 2022* at **Diamond Bar, California**.



Yasenia Baltierra
Office Assistant